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APPEAL STAFF REPORT

SUBSTANTIAL ISSUE DETERMINATION

Appeal number **A-3-SCO-05-073, Porter SFR Remodel and Addition**

Applicants William & Susan Porter

Appellant James & Sandra Sheehan

Local government Santa Cruz County

Local decision Approved with conditions (September 14, 2005)

Project location 3030 Pleasure Point Drive (seaward side of Pleasure Point Drive) in the Pleasure Point region of the unincorporated Live Oak area of Santa Cruz County (APN 032-242-11).

Project description Remodel and additions to an existing 2,530 square foot single-story residence. First floor additions include construction of 159 square feet of additional floor area and 527 square foot two car garage. Second story addition includes 1,627 square feet of floor area and a 431 square foot deck above an existing bedroom. A 133 square foot detached shop will also be added to the property.

File documents Santa Cruz County Certified Local Coastal Program; Santa Cruz County Coastal Development Permit Application File 02-0600.

Staff recommendation ... **No Substantial Issue**

Summary of Staff Recommendation: This is the substantial issue determination for appeal number A-3-SCO-05-073. Santa Cruz County conditionally approved a project to remodel an existing 2,530 square foot single story residence and construct a roughly 2,877 square foot addition. The addition involves enlarging the first floor by 159 square feet, adding a 527 square foot garage, and construction of a second story with two bedrooms, two bathrooms, office and laundry room (1,627 s.f.) and a deck (431 s.f.) over a portion of the first floor. A detached single story accessory structure (133 s.f.) to be used as shop will also be constructed on the 14,740 square foot parcel. A single-family residence with a detached garage is a principally permitted use in the R-1-5 (Single Family Residential) zone and is consistent with the LCP land use designation of Urban Medium Residential (R-UM). The project is located on a coastal bluff in the Pleasure Point region within the Live Oak Beach Area of Santa Cruz County (location map attached as Exhibit 1).



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November 16, 2005 Meeting in Los Angeles

Staff: M. Watson Approved by:

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The Appellants contend that the County-approved project will not adequately protect the community and visual character of the Pleasure Point neighborhood. They further contend that the County's approval fails to comply with the direction of the Board of Supervisors and that the approval authorizes development within the bluff setback, and as a result, is inconsistent with the County's Local Coastal Program (LCP). These contentions do not raise a substantial issue for the following reasons:

1. Community Character / Visual Resources. The residential remodel is of modern architectural design that meets the LCP standards for mass/scale, floor area, lot coverage, and height requirements. The County conditioned its approval to require two-tone coloration and finish materials and low reflective glass to add visual interest and minimize visual impacts. The project also has been refined to add offsets and articulation that break up mass and avoid a bulky appearance. The project will join an eclectic mix of neighborhood residences and will not adversely impact the character of the surrounding area, nor block or degrade views of the coast available to the public. Therefore, the appeal does not raise a substantial issue regarding the protection of community character or scenic coastal views.

2. Compliance with Board of Supervisor Direction. During local consideration of the appeal, the Board of Supervisors remanded the project back to the Planning Commission with guidance to address neighborhood concerns regarding privacy and illumination transmitting from the residence at night. The Planning Commission conditioned the permit to require the second story window to be composed of low reflective material with zero light transmission capabilities in order to maintain the privacy of residents across the street and address nighttime illumination issues. The conditioned permit adequately addresses the concerns raised by the Board of Supervisors and complies with LCP requirements related to lighting and neighborhood privacy. Therefore, appeal contentions that assert the Board's direction was not followed do not raise a substantial issue of LCP consistency.

3. Bluff Setbacks. The Appellants correctly identify a mistake in the County's approval as it authorizes development within the required bluff setback. The applicant proposes to construct a second-story deck on top of a portion of the existing dwelling which is located within the bluff setback. Construction of the deck will not expand the building footprint, but rather replace the existing low-pitched roof with parapets and railings for the deck. Accordingly, the development will not extend any further seaward than its current position. The site is currently armored with a large seawall permitted by the Commission in September 2004 (CDP No. 3-93-039-A1). Thus, even though the County's approval is not consistent with the standards for establishing development setbacks from coastal bluffs, the approval will not contribute to bluff instability, subject the development to additional geologic hazards, or result in the need for shoreline protection. As a result, the contentions do not raise a substantial issue.

Therefore, Staff recommends that the Commission find that no substantial issue exists with respect to this projects conformance with the certified Santa Cruz County LCP and thereby decline to take jurisdiction over the coastal development permit for the project.



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1. Appeal of Santa Cruz County Decision

A. Local Government Action

On September 14, 2005, the Santa Cruz County Planning Commission approved the proposed project subject to multiple conditions (see Exhibit 2 for the County's staff report findings and conditions on the project). The Planning Commission received the application as an appeal of the Zoning Administrator's denial of a Coastal Development Permit. The Zoning Administrator denied the project because it 1) proposed a seawall that was outside of the County's retained permitting jurisdiction and 2) contemplated development within the 100-year bluff setback area which had not yet been adequately identified. As noted, the Zoning Administrator's denial was appealed to the Planning Commission who recommended the applicant first obtain a coastal development permit from the Commission for the seawall portion of the project. Upon issuance of a Coastal Development Permit for the seawall in September 2004, the Planning Commission re-examined the application for a substantial remodel and addition and made recommendations to bring the project into conformance with the County's standards. The Planning Commission's action was reviewed by the County Board of Supervisors as a Special Consideration item on March 8, 2005, which resulted in the item being remanded back to the Planning Commission with direction to address massing along the western elevation and window treatment at the primary (south) elevation. The Planning Commission then approved the project with conditions on September 14, 2005 and notice of the coastal development permit (CDP) was received in the Coastal Commission's Central



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Coast Office on October 7, 2005. The County's approval was appealed directly to the Commission, rather than to the Board of Supervisors, because the County charges a fee to file an appeal.

B. Appeal Procedures

Coastal Act Section 30603 provides for the appeal of approved coastal development permits in jurisdictions with certified local coastal programs for development that is (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance; (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff; (3) in a sensitive coastal resource area; (4) for counties, not designated as the principal permitted use under the zoning ordinance or zoning district map; and (5) any action on a major public works project or energy facility. This project is appealable because it is between the first public road and the sea, and it is within 300 feet of the inland extent of the beach.

The grounds for appeal under Section 30603 are limited to allegations that the development does not conform to the standards set forth in the certified LCP or the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a de novo coastal development permit hearing on an appealed project unless a majority of the Commission finds that "no substantial issue" is raised by such allegations. Under Section 30604(b), if the Commission conducts a de novo hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program. Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act, if the project is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone. This project is so located and thus this additional finding would need to be made in a de novo review in this case.

The only persons qualified to testify before the Commission on the substantial issue question are the Applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing. Any person may testify during the de novo stage of an appeal.

C. Appellant's Contentions

In summary, the Appellants contend that the project is not consistent with the LCP due to impacts to visual resources and community character. Appellants also maintain that the County approval failed to comply with directions from the Board of Supervisors as they related to design aesthetics. The appeal further contends that the approval includes construction of new development within the required coastal bluff setback and failed to address non-compliance issues regarding site design and coastal zone requirements. Please see Exhibit 3 for the Appellant's complete appeal document.



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2. Staff Recommendation on Substantial Issue

The staff recommends that the Commission determine that **no substantial issue** exists with respect to the grounds on which the appeal was filed. A finding of no substantial issue would mean that the County's decision in this matter would be final (conversely, a finding of substantial issue would bring the project under the jurisdiction of the Commission for hearing and action).

Motion. I move that the Commission determine that Appeal Number A-3-SCO-05-073 raises **no** substantial issue with respect to the grounds on which the appeal has been filed under §30603 of the Coastal Act.

Staff Recommendation of No Substantial Issue. Staff recommends a **yes** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

Resolution to Find No Substantial Issue. The Commission hereby finds that Appeal Number A-3-SCO-05-073 does not present a substantial issue with respect to the grounds on which the appeal has been filed under §30603 of the Coastal Act regarding consistency with the Certified Local Coastal Program and/or the public access and recreation policies of the Coastal Act.

Recommended Findings and Declarations

The Commission finds and declares as follows:

3. Project Description

A. Project Location

The county approved project is located at 3030 Pleasure Point Drive in Live Oak. Live Oak is the name for the unincorporated segment of Santa Cruz County located between the City of Santa Cruz (upcoast) and the City of Capitola (downcoast). The Live Oak coastal area is well known for excellent public access and coastal recreation opportunities. Walking, biking, skating, viewing, surfing, fishing, and sunbathing are among the range of recreational activities possible along the Live Oak shoreline. In addition, Live Oak supports a number of different coastal environments including sandy beaches, rocky tidal areas, blufftop terraces, and coastal lagoons (such as Moran Lake). Live Oak includes a number of defined neighborhood and special communities within it, including the larger Pleasure Point area in which this site is located. These varied coastal characteristics give Live Oak a unique character that makes it a prime destination for coastal access and recreation opportunities.

Primarily residential with some concentrated commercial and industrial areas, Live Oak is a



substantially urbanized area with few major undeveloped parcels remaining. Development pressure has been disproportionately intense for this section of Santa Cruz County. Because Live Oak is projected to absorb the majority of the unincorporated growth in Santa Cruz County, development pressure will likely continue to tax Live Oak's public infrastructure (e.g., streets, parks, beaches, etc.) as the remaining vacant parcels are developed and developed residential lots are re-developed with larger homes.¹ Given that the beaches are the largest public facility in Live Oak, this pressure will be particularly evident along the shoreline.

B. County Approved Project

The County of Santa Cruz approved a coastal development permit to remodel and construct an addition to an existing 2,530 square foot single-story residence. First floor additions include enlarging the floor area by 159 square feet and adding a 527 square foot garage. The approval also includes construction of a second story with two bedrooms, two bathrooms, office and laundry room (1,627 s.f.) and a deck (431 s.f.) over a portion of the first floor. A detached single story accessory structure (133 s.f.) has also been approved on the 14,740 square foot parcel.

The proposed structure incorporates a modern design with glass façades at the second story and curving roofline. Exterior materials include textured concrete panels similar to stucco, large glass-paneled windows, and a brush metal aluminum roof. The architect also proposes a series of graduated setbacks from the western property line to breakup overall massing along the western elevation. Please see Exhibit 5 for exterior elevations and renditions.

4. Substantial Issue Findings

A. Policies Cited by Appeal

The Appellants formally identify LCP policies 13.11.072, 13.11.073(b)(1), 13.20.130 (various subsections), 16.10.070(h)(1)(ii), and 18.10.350 as the basis for the appeal. Appellants generally refer to the project not meeting the goals of the LCP, as it relates to site design, character of the community, and visual resource impacts. See exhibit C for the Appellants complete appeal documents.

B. Analysis of Consistency with Cited Policies

1. Visual Resources / Character Issues

a. LCP Policies

¹ Live Oak is currently home to some 20,000 residents. The LCP identifies Live Oak at buildout with a population of approximately 29,850 persons; based on the County's recreational formulas, this corresponds to a park acreage of 150-180 acres. Though Live Oak accounts for less than 1% of Santa Cruz County's total acreage, this projected park acreage represents nearly 20% of the County's total projected park acreage.



The following County LCP design criteria are protective of coastal zone visual resources and require visual compatibility with the developed character of neighborhoods and adjacent areas. The LCP site design and visual resource policies applicable to the Appellant's visual and community character contentions include:

IP Section 13.11.072 Site Design

(a) It shall be the objective of new development to enhance or preserve the integrity of existing land use patterns or character where those exist and to be consistent with village plans, community plans, and coastal special community plans as they become adopted, and to complement the scale of neighboring development where appropriate to the zoning district context, new development, where appropriate, shall be sited, designed and landscaped so as to be visually compatible and integrated with the character of surrounding areas.

IP Section 13.11.073 (b)(1) Compatible Building Design

- (i) Building design shall relate to adjacent development and the surrounding area.*
- (ii) Compatible relationships between adjacent buildings can be achieved by creating visual transitions between buildings; that is, by repeating certain elements of the building design or building siting that provide a visual link between adjacent buildings. One or more of the building elements listed below can combine to create an overall composition that achieves the appropriate level of compatibility:*
 - (A) Massing of building form*
 - (B) Building silhouette*
 - (C) Spacing between buildings*
 - (D) Street face setbacks*
 - (E) Character of architecture*
 - (F) Building scale*
 - (G) Proportion and composition of projections and recesses, doors and windows, and other features*
 - (H) Location and treatment of entryways*
 - (I) Finish material, texture, and color.*

IP Section 13.20.130(b)(1) Entire Coastal Zone, Visual Compatibility. *The following Design Criteria shall apply to projects site anywhere in the coastal zone: All new development shall be sited, designed and landscaped to be visually compatible and integrated with the character of surrounding neighborhoods or areas.*

IP Section 13.20.130(c)(2) Site Planning. *Development shall be sited and designed to fit the physical setting carefully so that its presence is subordinate to the natural character of the site, maintaining the natural features (streams, major drainage, mature trees, dominant vegetative communities). Screening and landscaping suitable to the site shall be used to soften the visual impact of development in the viewshed.*



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IP Section 13.20.130(c)(3) Rural Scenic Resources, Building Design. The following Design Criteria shall apply to all projects located in designated rural scenic resource areas: Structures shall be designed to fit the topography of the site with minimal cutting, grading, or filling for construction. Pitched, rather than flat roofs, which are surfaced with non-reflective materials except for solar energy devices shall be encouraged. Natural materials and colors which blend with the vegetative cover of the site shall be used, or if the structure is located in an existing cluster of buildings, colors and materials shall repeat or harmonize with those in the cluster.

IP Section 13.20.130(d)(1) Beach Viewsheds, Blufftop Development. The following Design Criteria shall apply to all projects located on blufftops and visible from beaches: Blufftop development and landscaping...in rural areas shall be set back from the bluff edge a sufficient distance to be out of sight from the shoreline, or if infeasible, not visually intrusive. In urban areas of the viewshed, site development shall conform to (c) 2 and 3 above

b. Analysis

Appellants contend that the county approved project will negatively impact the visual character of Pleasure Point. Appellants maintain the project does not minimize visual intrusion and will result in a structure that stands out from the beach, Pleasure Point Drive, and East Cliff Drive. Similarly, the Appellants contend that the project's modern architectural style and increase in size are not compatible with the surrounding neighborhood. They assert that existing large two-story houses are similar in height but that they exhibit much shorter ridgelines. Appellants complain that because of the length of the building and the north-south orientation of the proposed residence, it will clearly stand out above the adjacent residences and will be massive in relationship to the existing structures. In addition, Appellants stress that the negative visual impacts will be exacerbated by the extensive amount of glass on the east second story wall, and the north and south facades, which will become "a beacon like the Tower House on East Cliff Drive when they are lit up at night."

The site of the proposed project is a developed blufftop lot, near Pleasure Point park in Live Oak. The Pleasure Point area of Live Oak is a highly developed urban neighborhood containing an assortment of styles and sizes of homes ranging from older ranch style homes, bungalows, split-levels, Spanish colonial revival, and some with a mixture of these elements. Both one and two story homes are present in a variety of sizes and massing. In general the neighborhood lacks any defining architectural character or design and there are a number of dwellings that could individually be considered unique in their size, scale, or design.

As currently designed, the architectural style of the County approved project is very modern. Because of required bluff setbacks and the shape of the lot, the development envelope is restricted to a long narrow area adjacent to the western side of the property. As a result, the development opportunities are limited mainly to second story expansion concentrated towards the street and western property line. The proposed shape of the expanded residence is long and narrow and somewhat irregular. Proposed construction materials include concrete (stucco), metal, and glass. The roof is pitched, curved, and articulated to provide visual interest and avoid a bulky appearance. Similarly, the long ridgeline on the



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west elevation employs a graduated setback from the western property line and multi-hued coloration to breakup massing.

The Applicant has proposed a modern style of architecture that meets LCP standards for floor area, lot coverage, and height requirements. The subject parcel is 14,740 square feet. The maximum height of the two-story portions of the residence would vary between 25 and 28 feet (maximum 28 feet allowed). The lot is relatively flat and no grading is proposed. The County approved project approaches the limits of lot coverage (24% proposed, maximum 30% allowed), but is well under the maximum floor area ratio (36% proposed, maximum 50% allowed). Because the certified LCP does not exclude undevelopable portions of the lot, such as the beach and bluff from the calculation of allowable lot coverage, the structure appears larger in relation to perceived lot size than would a similar structure on a flat lot of similar or same size. As evidenced by this and past appeals to the Commission, keeping the size and mass of new residential structures within a reasonable range of the existing housing stock is an important neighborhood issue. Accordingly, Staff has urged the County to adopt more specific guidelines for the Live Oak planning area that would help resolve such design issues and allow the community to establish a vision for the future.

c. Conclusion

As approved by the County, the remodel and additions to the existing residence are consistent with LCP sections 13.11.072 and 13.20.130(b)(1) identified above. These sections require new development to be sited, designed, and landscaped to be visually compatible and integrated with the character of the surrounding neighborhoods or areas. The design of the proposed remodel includes a varied roofline, numerous offsets, articulations, and coloring scheme all intended to add visual interest and breakup mass. Low reflective, opaque glass is required by the County to reduce glare, increase privacy, and address nighttime illumination. The design includes the use of natural materials and the project has been conditioned to include a landscape plan to ensure visual compatibility and integration into the character of the neighborhood consistent sections 13.20.130(c)(2) and 13.20.130(c)(3). Accordingly, the county approved development is consistent with LCP design criteria and development standards, and will join an eclectic mix of existing neighborhood residences without adverse impact to the character of the surrounding area or the scenic coastal views currently available to the public. **Therefore, no substantial issue exists.**

2. Bluff Setbacks

a. LCP Policies

The certified LCP states:

IP Section 16.10.070(h)(1)(ii) Coastal Bluffs and Beaches:

1. Criteria in Areas Subject to Coastal Bluff Erosion: Projects in areas subject to coastal bluff erosion shall meet the following criteria:



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(ii) for all development, including that which is cantilevered, and for non-habitable structures, a minimum setback shall be established at least 25 feet from the top edge of the coastal bluff, or alternatively, the distance necessary to provide a stable building site over a 100-year lifetime of the structure, whichever is greater.

b. Analysis

Appellants contend that the County approved project authorizes development within the established bluff buffer (i.e., within 25' of the blufftop edge) in contradiction to LCP standard 16.10.070(h)(1)(ii). At least a portion of the existing bedroom on the southwest corner of the site is located within the 25' bluff setback required area. As noted in the appeal, the Applicant's propose to extend the walls above the bedroom and build a new deck (431 s.f.) with parapets and railings on top of it, placing most of the deck within the 25' bluff setback.

The relevant zoning standard requires all development and structures (habitable or non-habitable) in areas prone to coastal erosion to be setback a minimum distance of 25' from the blufftop edge or alternatively, a distance necessary to provide a stable building site over a 100-year lifetime of the structure, whichever is greater. The purpose of the standard is to protect against future requests for shoreline armoring and minimize the threat from geologic hazards. The County approved project includes construction of a second-story deck on top of an existing structure within the 25' bluff setback. The existing structure is non-conforming with respect to the bluff setback and thus construction of the new decking will expand that non-conformity, and is inconsistent with certified LCP standard 16.10.070(h)(1)(ii).

c. Conclusion

Although, the proposed second-story deck is technically inconsistent with this ordinance, it will be located on top of an existing structure and as such does not encroach any further seaward of the existing non-conforming dwelling. Additionally, the site of the proposed development is presently armored with a large recurved concrete wall and as a result, the new deck will not result in a future need for shoreline armoring. The existing bedroom is single-story with a fairly low-pitched roof. The approved deck will extend the height of the existing walls a few feet above the existing roofline and add new railings and parapets that will impact the views of the neighboring property, but not affect public views. Accordingly, although approval of the second-story decking is technically not consistent with the County standards establishing blufftop setback requirements, approval of this aspect of the project will not cause any further bluff instability, subject the development to additional geologic hazards, or result in future shoreline protection. Therefore, **no substantial issue exists.**

3. Other Issues



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a. LCP Policies

IP Section 18.10.350 Special Consideration by Board of Supervisors.

Various planning decisions have been delegated to the Planning Commission, the Zoning Administrator, the Planning Director, or other officers, subject to appeal procedures. In order to ensure the orderly and consistent application of this Chapter in accordance with its intent, it is hereby provided that the Board of Supervisors shall consider and act on any such delegated matter which would otherwise be appealable, upon the request of any member of the Board of Supervisors, provided such a request, outlining the reasons why a special consideration of the matter is appropriate, is filed in writing with the Clerk of the Board within the time provided for filing an appeal. If such a written request signed by a Board member is filed with the Clerk of the Board within such time limits, the Clerk shall place the matter on the Board's next consent agenda, and the Board shall set the matter for public hearing within thirty (30) calendar days. Upon the date of the hearing, the matter shall appear on the Board's regular Planning agenda as a public hearing set for special consideration. Thereafter, the matter may be considered de novo by the Board, beginning with a staff report, followed by Board of Supervisors' comments, and public testimony; or alternately, after taking public comment, the Board may remand the matter to the Planning Commission, the Zoning Administrator, the Planning Director or other officers, with directions that such subsidiary bodies or officers take any action consistent with this Code and the Santa Cruz County General Plan, subject to appeal procedures. Where a hearing upon notice was required before the approving body making the initial decision, the procedure for the Board's consideration of such matter shall include hearing and notice as required in appeals from such approving body. Any Board member requesting such special consideration shall not be considered an appellant, and shall be fully qualified on all matters.

b. Analysis

Appellants contend that the County approved project does not comply with the direction given from the Board of Supervisors at its Special Consideration hearing on March 8, 2005 as required by County Code 18.10.350. At issue is the amount of glass proposed for the front façade (i.e., north elevation) and the direction of two Supervisors to reduce the amount of glass. The County approved the project with a different type of glass and no corresponding reduction in glass.

Section 18.10.350 provides for Board review of projects that are otherwise appealable upon request by a member of the Board of Supervisors, and if received within the designated appeal period. On a split decision (2-2), the Board requested a reduction in the amount of glass on the front façade after receiving testimony from the neighbors across the street regarding privacy issues and illumination at night, and remanded the project back to the Planning Commission for further consideration. The Board of Supervisors did not recommend modification of the architectural design of the home. Accordingly, the County conditioned its approval to require the second story window at the front (north) elevation to be composed of low reflective material with zero light transmission capabilities to maintain the privacy of residents across Pleasure Point Drive and address nighttime illumination issues.



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C. Conclusion

The conditioned window treatment required by the Planning Commission adequately addresses LCP requirements regarding design and lighting. Therefore, no substantial issue regarding LCP compliance is raised by the contention that the approval does not follow the Board of Supervisors directions.



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